

48A C.J.S. Judges § 285

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

C. Grounds for Disqualification

2. Interest and Relationship

a. Interest

(3) Particular Interests

§ 285. Stockholder or officer of corporation

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An interest in a corporation as stockholder or officer will generally disqualify a judge from sitting in an action in which such corporation is interested, but the fact that the judge was at one time in the past a stockholder or officer of a particular corporation does not disqualify the judge from acting in a litigation affecting it.

Generally, a judge who is a stockholder, officer, or director in a corporation cannot sit in an action in which such corporation is interested since such interest is sufficient to disqualify the judge.¹ Such interest must, however, be a present interest,² real or certain,³ and not merely possible or contingent,⁴ or insubstantial.⁵

Thus, there is no rule requiring recusal in every case in which a judge owns stock of a company in the same industry as one of the parties to the case.⁶ Where a judge owns a small portion of issued stocks, the judge will not be disqualified on the basis of interest.⁷ The fact that a corporation in which the judge holds stock is a simple contract creditor of one of the parties to the suit does not disqualify the judge.⁸ Also, the fact that the judge owns stock in a corporation which in turn owns stock in a second corporation does not necessarily disqualify the judge from acting in a suit to which the second corporation is a party.⁹ A judge is not disqualified by the fact that the judge and a party to the suit pending before the judge are stockholders in a corporation, the interests of which are in no way involved in the litigation.¹⁰

A judge is not disqualified by reason of having once owned stock in the corporation which was disposed of before the commencement of the proceedings,¹¹ or having been a subscriber for stock in the corporation, where the judge's subscription was canceled before delivery of the certificate.¹² However, it has been said that a judge who owned stock in the corporation, which was disposed of before the commencement of the proceeding, although not technically disqualified, should decline to act.¹³ A judge is not per se disqualified from sitting in an action against, or in some way relating to, a corporation of which the judge was at one time an officer and director.¹⁴

Securities in common investment fund.

Direct ownership of securities must be distinguished from ownership of securities in a common investment fund over which a judge exercises no management responsibilities.¹⁵ Ownership in a mutual or common investment fund that holds securities is not a financial interest in such securities unless the judge participates in the management of the fund.¹⁶

CUMULATIVE SUPPLEMENT

Cases:

Judge was disqualified for owning stock in parent corporation of subsidiary that was party to action concerning subsidiary's commercial lease, and thus, his summary adjudication ruling for subsidiary was void as a nullity, requiring that the summary adjudication ruling itself be vacated as a remedy. *Cal. Civ. Proc. Code § 170.1. Chaganti v. Superior Court*, 73 Cal. App. 5th 237, 288 Cal. Rptr. 3d 238 (6th Dist. 2021).

[END OF SUPPLEMENT]

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Footnotes

- 1 Ala.—*Acromag-Viking v. Blalock*, 420 So. 2d 60 (Ala. 1982).

Ark.—*Huffman v. Arkansas Judicial Discipline and Disability Com'n*, 344 Ark. 274, 42 S.W.3d 386 (2001).

Ga.—*White v. SunTrust Bank*, 245 Ga. App. 828, 538 S.E.2d 889 (2000).

Spouse's ownership of stock
U.S.—*In re Cement Antitrust Litigation* (MDL No. 296), 688 F.2d 1297, 34 Fed. R. Serv. 2d 1669 (9th Cir. 1982), judgment aff'd, 459 U.S. 1191, 103 S. Ct. 1173, 75 L. Ed. 2d 425 (1983) and opinion supplemented, 709 F.2d 521, 36 Fed. R. Serv. 2d 1537 (9th Cir. 1983).

Judge as trustee of trust owning stock
Cal.—*Tatum v. Southern Pac. Co.*, 250 Cal. App. 2d 40, 58 Cal. Rptr. 238, 25 A.L.R.3d 1325 (1st Dist. 1967).

A.L.R. Library
Disqualification of judge because of his or another's holding or owning stock in corporation involved in litigation, 25 A.L.R.3d 1331.
2 Cal.—*Favorite v. Superior Court of Riverside County*, 181 Cal. 261, 184 P. 15, 8 A.L.R. 290 (1919).
3 U.S.—*Kinnear-Weed Corp. v. Humble Oil & Refining Co.*, 324 F. Supp. 1371 (S.D. Tex. 1969), judgment aff'd, 441 F.2d 631 (5th Cir. 1971).

N.Y.—*People v. Whitridge*, 144 A.D. 493, 129 N.Y.S. 300 (1st Dep't 1911).
4 U.S.—*Mavis v. Commercial Carriers, Inc.*, 408 F. Supp. 55 (C.D. Cal. 1975).

N.H.—*Rinden v. Marx*, 116 N.H. 58, 351 A.2d 559 (1976).
5 U.S.—*Weingart v. Allen & O'Hara, Inc.*, 654 F.2d 1096 (5th Cir. 1981).
6 U.S.—*In re Placid Oil Co.*, 802 F.2d 783 (5th Cir. 1986).

Company's competitor
A judge who owns stock in a company is usually not required to recuse in cases involving that company's competitor since any impacts on the market are likely to be speculative and attenuated.

U.S.—*Armenian Assembly of America, Inc. v. Cafesjian*, 783 F. Supp. 2d 78 (D.D.C. 2011).
7 U.S.—*U.S. v. Ravich*, 421 F.2d 1196 (2d Cir. 1970); *Lampert v. Hollis Music, Inc.*, 105 F. Supp. 3 (E.D. N.Y. 1952).
8 Ala.—*Webb v. Town of Eutaw*, 9 Ala. App. 474, 63 So. 687 (1913).
9 U.S.—*U.S. v. Harris*, 458 F.2d 670 (5th Cir. 1972).

Tex.—*City of Pasadena v. State ex rel. City of Houston*, 428 S.W.2d 388 (Tex. Civ. App. Houston 1st Dist. 1967), writ granted, (Oct. 16, 1968) and judgment rev'd on other grounds, 442 S.W.2d 325 (Tex. 1969).

- 10 Colo.—Fehr v. Hadden, 134 Colo. 102, 300 P.2d 533 (1956).
- Vt.—Hyde Park Lumber Co. v. Shepardson, 72 Vt. 188, 47 A. 826 (1900).
- As to relationship to officer or stockholder of corporate party, see § 292.
- 11 U.S.—U. S. Fidelity & Guaranty Co. v. Lawrenson, 334 F.2d 464 (4th Cir. 1964).
- N.Y.—Barsotti's, Inc. v. Consolidated Edison Co. of New York, Inc., 245 A.D.2d 178, 666 N.Y.S.2d 182 (1st Dep't 1997).
- 12 U.S.—Town of Andes v. Ely, 158 U.S. 312, 15 S. Ct. 954, 39 L. Ed. 996 (1895).
- 13 Or.—Henderson v. Tillamook Hotel Co., 76 Or. 379, 148 P. 57 (1915).
- 14 Mich.—Boyer v. Backus, 282 Mich. 701, 280 N.W. 756 (1938).
- 15 U.S.—Central Telephone Co. of Virginia v. Sprint Communications Co. of Virginia, Inc., 715 F.3d 501 (4th Cir. 2013), cert. denied, 134 S. Ct. 423, 187 L. Ed. 2d 312 (2013).
- 16 U.S.—Central Telephone Co. of Virginia v. Sprint Communications Co. of Virginia, Inc., 715 F.3d 501 (4th Cir. 2013), cert. denied, 134 S. Ct. 423, 187 L. Ed. 2d 312 (2013).

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